

STATE OF MICHIGAN  
JUDICIAL TENURE COMMISSION

IN THE MATTER OF:

HON. MICHAEL J. HALEY  
Judge, 86<sup>th</sup> District Court  
328 Washington Street  
Traverse City, MI 49684  
-----/

Complaint No. 77

**JUDGE MICHAEL J. HALEY'S ANSWER TO COMPLAINT**

NOW COMES the Honorable Michael J. Haley, District Court Judge, 86<sup>th</sup> District Court, Traverse City, Michigan and pursuant to MCR 9.209(B) provides answer to the Complaint filed by the Michigan Judicial Tenure Commission.

1. Judge Haley admits the allegations contained therein and in further answer states that the 86<sup>th</sup> District Court also includes Antrim, Leelanau and Grand Traverse Counties.
2. Judge Haley admits the allegations contained therein.
3. Judge Haley admits the allegations contained therein.
4. Judge Haley admits the allegations contained therein. In further answer Ms. Porter was originally charged with two counts of operating without insurance in a complaint dated June 5, 2003. The complaint was amended to charge an additional count of using a vehicle with improper plates.
5. In answer to paragraph 5, Judge Haley admits the allegation and in further answer, states that the plea agreement had been reached solely between Richard Benedict and Charles Koop and had not been presented to or discussed with Judge Haley and Judge Haley had not been made aware of the

agreement until it was presented to him at the plea hearing on October 14, 2003.

6. Judge Haley admits the allegations contained therein.
7. In answer to paragraph 7, Judge Haley admits same and in further answer states that at no time was he told by Mr. Benedict, Mr. Koop or any other individual that Mr. Benedict would want to approach the bench at the conclusion of the plea hearing.
8. Judge Haley admits the allegations contained therein.
9. In answer to paragraph 9, Judge Haley admits that Mr. Benedict, after approaching the bench, referenced two University of Michigan tickets and at that same instant he placed the tickets on the bench.
10. Upon information and belief, paragraph 10 is admitted.
11. Upon information and belief, paragraph 11 is admitted.
12. In answer to paragraph 12, Judge Haley had continued to review the criminal file to determine whether an additional hearing could be avoided while the exchange as set forth in paragraph 11 continued. Judge Haley was trying to accommodate the defendant, the prosecutor and her counsel. To the extent paragraph 12 states or suggests that Judge Haley made an accommodation because Mr. Benedict had offered U of M/Illinois game tickets, the allegation is denied for the reason that same is untrue.
13. In answer to paragraph 13, to the extent paragraph 13 suggests that Judge Haley was negotiating with or trying to accommodate Mr. Benedict, the allegation is denied as being untrue.

14. In answer to paragraph 14, Judge Haley admits the allegation and in further answer states that the fine, the court costs and the fees he assessed against Ms. Porter were equal to or in excess of fines, costs and fees for a person in the same or similar situation as any other defendant found guilty of using a vehicle with improper plates. To the extent paragraph 14 states otherwise, Judge Haley denies same for the reason it is untrue.
15. In answer to paragraph 15, in the form and manner alleged, is denied as being untrue. Judge Haley never expected Richard Benedict, a (former) Judge with 24 years of experience on the bench to approach him with a request that he use football tickets because "somebody's got to go". Approximately one week before accepting the plea, Richard Benedict had asked Judge Haley whether he was interested in tickets to the U of M/Illinois football game and Judge Haley advised him that he might be, but he would need to check with his family and if he could use them, he would buy the tickets. Judge Haley also advised Mr. Benedict that if Mr. Benedict did not hear from him, he should assume that Judge Haley was not going to have a use for the tickets. Judge Haley was thereafter surprised and taken aback by Mr. Benedict's inappropriate action. Judge Haley admits he did not admonish Mr. Benedict, and to the extent paragraph 15 alleges that Judge Haley had a duty or a responsibility to rebuff or admonish Mr. Benedict, the allegation is denied as being untrue.
16. Judge Haley admits the allegations contained therein.
17. Judge Haley admits the allegations contained therein.
18. Paragraph 18 (a) is denied for the reason same is untrue.

Paragraph 18 (b) is denied for the reason that same is untrue and in further answer states that, Antrim County Deputy Sheriff Terry Skurnit, resented the fact that Judge Haley, while presiding in the case of People v. Skurnit revoked Terry Skurnit's bond because of allegations that Skurnit was attempting to intimidate a witness in his criminal prosecution. Deputy Skurnit, Charles Koop and others who may have been in the courtroom knew that Mr. Benedict was not trying to influence Judge Haley and also knew that Judge Haley was not being influenced by Mr. Benedict.

Paragraph 18 (c) is denied. Judge Haley observed the high standards of conduct that he has exhibited in all the matters that he has involved himself since becoming a member of the 86<sup>th</sup> District Court.

Paragraph 18 (d) is denied. No one associated with the case of People v. Porter, the 86<sup>th</sup> District Court or the community that the 86<sup>th</sup> District Court serves, has lost confidence in Judge Haley, the 86<sup>th</sup> District Court, or the judiciary generally.

Paragraph 18 (e) is denied. The only person who suggested an impropriety is Deputy Skurnit. Deputy Skurnit is and was interested only in paying back Judge Haley for Judge Haley's acting in accordance with the law in the matter of People v. Skurnit.

Paragraph 18 (f) is denied for reasons stated in answer to previous allegations.

Paragraph 18 (g) is denied. Ms. Porter received a fine of \$100. She was also assessed costs of \$250 and a state fee of \$40, was placed on six months probation and was ordered to pay restitution to the owner of the sign that was

damaged in the full amount claimed by the owner, i.e., \$4,116.35. Judge Haley's decision was in conformance with the law and the facts.

Paragraph 18 (h) is denied. Judge Haley did not accept a "gift". Richard Benedict was not a donor. To the extent paragraph 18 (h) alleges that Judge Haley's decision to give the two tickets to a court employee – tickets that had originally been given to Richard Benedict as a gift upon his retirement from the 86<sup>th</sup> District Court-was improper conduct, is denied.

Paragraph 18 (i) is denied for reasons set forth in previous answers.

## **COUNT II**

19. In answer to paragraph 19, and upon information and belief, Deputy Skurnit first approached Charles Koop and told Mr. Koop, that in his view, Judge Haley had imposed a lighter sentence on Ms. Porter as a result of a receipt of tickets. Deputy Skurnit knew, or should have known, that it was only after Mr. Koop and Mr. Benedict explained to Judge Haley that even if the matter was tried and the defendant convicted, a restitution hearing would still have to be held if the defendant had not agreed with the amount of restitution being requested by the victim, did Judge Haley agree to accept the plea. Deputy Skurnit knew or should have known that the sentence was well within the realm of what a person such as Ms. Porter would expect to face. Ms. Porter did not have a record. She had not been drinking. The accident did not cause personal injuries and Ms. Porter was going to have to reimburse the victim for the entire amount of the property damage. Mr. Koop told Deputy Skurnit that the sentence was fair and what he expected it would have been and despite having that information Deputy Skurnit continued in his attempt to disparage Judge

Haley. Several weeks after the plea another deputy from the Antrim County Sheriff's Department informed Mr. Koop that Mr. Skurnit was telling individuals that Judge Haley was "on the take" and Charles Koop thereafter informed Judge Haley of Mr. Skurnit's actions and statements. To the extent that paragraph 19 states otherwise, Judge Haley denies same for the reason it is untrue.

20. Paragraph 20, in the form and manner alleged, is denied for the reason that it is untrue. On October 31, 2003, after learning that Terry Skurnit was telling other deputies that he was "on the take", Judge Haley wrote a letter to Antrim County Sheriff Terry Johnson. The letter was not sent for purposes of retaliating against Deputy Skurnit. Judge Haley could not have someone working in his court who did not respect him and who was contemptuous of him and his court. Deputy Skurnit's attitude and statements were wrong and inappropriate. It was for that reason, and that reason only that Judge Haley did not and does not want Deputy Skurnit placed in his court as an officer. No Judge, no lawyer or indeed no manager of a McDonald's restaurant will employ someone who distrusts them and questions their honesty. Deputy Skurnit's conduct was highly offensive and it would have been wrong for Judge Haley to allow him to remain as an officer in his courtroom.

21. In answering paragraph 21, On February 4, 2004, 13<sup>th</sup> Judicial Circuit Judge Phillip E. Rodgers, Jr. wrote a letter to Sheriff Terry Johnson (attached as Exhibit 1 hereto), advising Sheriff Johnson that Deputy Skurnit had secretly taped a conversation with him. Judge Rodgers was of the opinion that Deputy Skurnit must have distrusted his candor, consistency and honesty. After the



taped conversation with Judge Rodgers and a subsequent investigation conducted by the Antrim Sheriff's Department, (wherein the Sheriff department concluded that Deputy Skurnit's honesty and credibility were at issue) Deputy Skurnit was removed from the Circuit Court as court officer altogether. For reasons set forth in Judge Haley's response to paragraph 20, and because Terry Skurnit's honesty and credibility was at issue, Judge Haley did not want him to work as a court officer in his courtroom. To the extent paragraph 21 states otherwise, Judge Haley denies same for the reason that same is untrue.

22. In answer to paragraph 22, Judge Haley, on February 24, 2004 in a response to the Judicial Tenure Commission letter of February 13, 2004, told the Judicial Tenure Commission in part as follows:

- a. That prosecutor Koop had filed a complaint charging Deputy Skurnit (then a road patrol deputy) with felony charges of Aggravated Stalking (in violation of a Personal Protection Order) and home invasion.
- b. That prior to the preliminary examination, Prosecutor Koop moved to revoke Skurnit's bond because of repeated and continued contact with the victim. Judge Haley granted the motion and remanded Deputy Skurnit to the Antrim County Jail.
- c. Judge Haley later amended the Order, reinstating Deputy Skurnit's bond of \$25,000 with a provision that Deputy Skurnit check in with a therapist twice daily.
- d. That (then Antrim) Sheriff Dale Roggenbeck attempted to terminate Deputy Skurnit but through arbitration, Deputy Skurnit was later reinstated.

- e. That neither Sheriff Roggenbeck nor the prosecutor wanted to have Deputy Skurnit function as a road patrol deputy because they were concerned about whether he was capable of dealing with domestic violent complaints.
- f. That thereafter, at Sheriff Johnson's request, Judge Haley allowed Deputy Skurnit to serve as a court officer in the 86<sup>th</sup> District Court.
- g. That Judge Haley learned through prosecutor Koop several weeks after the October 14<sup>th</sup> sentencing, that Deputy Skurnit was telling detectives and others within the Antrim County Sheriff's Department that Judge Haley was "on the take".
- h. That Judge Haley considered Mr. Skurnit's statement to be slanderous.
- i. That Judge Haley immediately contacted Sheriff Terry Johnson and advised him that Deputy Skurnit should cease the slander, take the matter to the Attorney General or the Judicial Tenure Commission if he truly believed that Judge Haley was accepting bribes, but that Deputy Skurnit could no longer serve as a court officer for the 86<sup>th</sup> District Court.
- j. That Sheriff Johnson indicated that he had no other place for Deputy Skurnit and asked Judge Haley to allow Deputy Skurnit to serve as a court officer for District Judges Phillips and Gilbert.
- k. That Judge Haley agreed to Sheriff Johnson's request, but later changed his mind when Judge Phillips expressed the view that Deputy Skurnit could not be trusted.
- l. That both Judge Phillips and Judge Haley told Sheriff Johnson that Deputy Skurnit could no longer serve as court officer.



- m. That Judge Haley met with Sheriff Johnson and personally discussed Deputy Skurnit's conduct.
  - n. That although Judge Haley is his initial reply to the commission indicated that he had not written a letter, he did tell the Judicial Tenure Commission that he had told Sheriff Johnson that Deputy Skurnit's conduct was inappropriate and malicious and that his "reckless crusade" had created a serious conflict which "absolutely precluded his continued service as a court officer".
  - o. That although Judge Haley advised the Commission that he was not in possession of correspondence relating to Deputy Skurnit, he so responded because he was of the belief that there was no correspondence. Prior to filing his response, he had discussed the matter with his then secretary, Barbara J. Tompkins and asked her to provide him with copies of all documents and correspondence relating to Deputy Skurnit. That Barbara Tompkins, as seen from the affidavit attached hereto as Exhibit 2, told Judge Haley that there were no letters or documents. To the extent paragraph 22 states otherwise, the allegation is denied for the reason that it is untrue.
23. In answer to paragraph 23, and to the extent it alleges that Judge Haley's response to the Commission (that he was not in possession of any writings) was intentionally false or was an attempt to mislead the commission, the allegation is denied because it is untrue. Judge Haley created the October 31, 2003 letter on his computer, and thereafter printed a hard copy of the draft, and gave it to his secretary, Barbara Tompkins, who in turn made a final draft on

court letterhead, which Judge Haley signed, sending copies to court administrator Carol Stocking and to Judge Thomas Phillips. Judge Haley retained no copy of the letter in any form. Ms. Tompkins did keep a copy in one of her files. On February 18, 2004, four months later, Judge Haley received a letter from the Commission (dated February 13, 2004) and thereafter attempted to respond to the letter. Judge Haley did not have a "file" relative to this matter, other than some newspaper clippings and the transcript from the plea. He had no correspondence, no memos, no court orders and Judge Haley believed there were none. Judge Haley had forgotten about the October 31<sup>st</sup> letter. The letter was not as important to him as the conversation he had with Sheriff Johnson wherein Judge Haley told Sheriff Johnson that Deputy Skurnit could not be trusted to serve as a court officer for him in the future. It was that conversation which was operative, in that Sheriff Johnson thereafter removed Deputy Skurnit from the courtroom. When Judge Haley's secretary returned to work on Monday, February 23, 2003, she took the draft of Judge Haley's response to the letter and prepared at least two, possibly four drafts before the final one was sent out. Judge Haley also asked her to review her files to determine whether there was any correspondence which he had created relative to this matter. None were found. All of the statements contained in the October 31<sup>st</sup> letter, (and more), had been reported to the Commission, in the body of Judge Haley's response dated February 24, 2004.

24. Paragraph 24 is denied as being untrue.
25. In answer to paragraph 25 (a) and for reasons stated in answers to paragraphs 1-24, the allegation is denied as untrue.

In answer to paragraph 25 (b) and for reasons stated in answers to paragraphs 1-24, the allegation is denied as untrue.

In answer to paragraph 25 (c) and for reasons stated in answers to paragraphs 1-24, the allegation is denied as untrue.

In answer to paragraph 25 (d) and for reasons stated in answers to paragraphs 1-24, the allegation is denied as untrue.

In answer to paragraph 25 (e) and for reasons stated in answers to paragraphs 1-24, the allegation is denied as untrue.

In answer to paragraph 25 (f) and for reasons stated in answers to paragraphs 1-24, the allegation is denied as untrue.

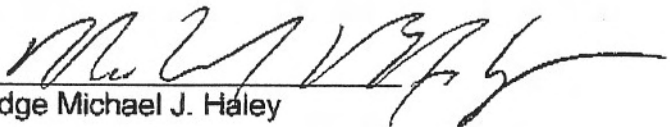
In answer to paragraph 25 (g) and for reasons stated in answers to paragraphs 1-24, the allegation is denied as untrue.

In answer to paragraph 25 (h) and for reasons stated in answers to paragraphs 1-24, the allegation is denied as untrue.

In answer to paragraph 25 (i) and for reasons stated in answers to paragraphs 1-24, the allegation is denied as untrue.

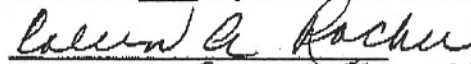
In answer to paragraph 25 (j) and for reasons stated in answers to paragraphs 1-24, the allegation is denied as untrue.

WHEREFORE, Judge Haley respectfully requests that the complaint be dismissed.

  
Judge Michael J. Haley

Sworn to and subscribed

To me this 21<sup>st</sup> day of December, 2004

  
Notary Public, GRAND TRAVERSE COUNTY  
My Commission Expires: 8-9-2007

BY: 

BRIAN D. EINHORN P13130  
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